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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,888	01/30/2002	Meir Ibguy		7860

7590 12/18/2002

Meir Ibguy
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Brooklyn, NY 11223

EXAMINER

STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,888

Applicant(s)

IBGUY, MEIR

Examiner

Anthony D Stashick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

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DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the abstract is not located on a separate sheet as required by MPEP § 608.01(b). Correction is required. See MPEP § 608.01(b).

Claim Objections

2. The claims are objected to as not commencing on a separate sheet as required by MPEP § 608.01(i)-(p) and 37 CFR 1.75(h) (i.e. there is no other writing on the page except for the “What I claim is:” and the claims. Correction is required in response to this Office action. Claim 2 is also rejected to as being of improper claim form. Claim 2 is made up of more than one sentence, which is not allowed according to 608.01(m) noted herein.

Form of Claims

The claim or claims must commence on a separate sheet and should appear after the detailed description of the invention. While there is no set statutory form for claims, the present Office practice is to insist that each claim must be the object of a sentence starting with “I (or we) claim,” “The invention claimed is” (or the equivalent). If, at the time of allowance, the quoted terminology is not present, it is inserted by the Technology Center (TC) technical support staff. Each claim begins with a capital letter and ends with a period. Periods may not be used elsewhere in the claims except for abbreviations. See *Fressola v. Manbeck*, 36 USPQ2d 1211 (D.D.C. 1995). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation, 37 CFR 1.75(i).

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Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 contains the phrase “a body embodied inside a fiber...” in line 3 of the claim that renders it so. It is not clear whether applicant is claiming a body embodied inside a sole or a fiber (typically known as a strand). Claim 1 also contains the phrase “on the ground of the shoe” which renders the claim vague and indefinite. It is not clear as to what the “ground of a shoe” is meant to encompass. Is applicant claiming a sole as the “ground of a shoe”? Is it located in the sole? Claim 1 also contains the phrase “a shower” which renders the claim vague and indefinite. It is not clear as to what structure applicant intends on encompassing by the use of this phrase. Also, claim 1 contains the phrase “which is triggered to...”, which renders the claim vague and indefinite. It is not clear how the “shower” is triggered to the tube. Is applicant trying to say that it is attached to the tube? Claim 1 also contains the phrase “the front part” in line 5. There is insufficient antecedent basis for this limitation in the claim (i.e. the term “front part” has not been previously mentioned in the claim.). Claim 2 contains the phrase “ordinary shoe”. It is unclear what is meant to be encompassed by this limitation in the claim. Also, the phrase “attached to the back, outside a shoe” is unclear because it is not known whether the pocket is behind the heel of the upper or sole or at the side of the heel of the upper or sole.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Riess 2,266,476 or Starr 2,887,793.

Riess '476 discloses all the limitations of the claim including the following: a source 8 for antibacterial product C; the source is a tank 8 and the powder C, when pressure is released from the tank, is a spray; a body 15, 16 embodied inside a fiber (the material of sole 2) on the ground of a shoe; the body consisting of two parts 15, 16; a tube 15 connected to the tank 8 and the other body part 16; a "shower" 16 (with aeration holes 19) attached to the forward portion of the shoe.

Starr '793 discloses all the limitations of the claim including the following: a source 33 for antibacterial product 42; the source is a tank (chamber 33) and the powder 42, when pressure is released from the tank, is a spray; a body 45, 30 embodied inside a fiber (the material of sole 21) on the ground of a shoe; the body consisting of two parts 45, 30; a tube 45 connected to the tank 33 and the other body part 30; a "shower" 30 (with aeration holes 28) attached to the forward portion of the shoe.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stephan 4,420,893 in view of Reeves 4,682,715 and Riess 2,266,476. Stephan '893 disclose all the limitations substantially

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as claimed including the following: a source 24 for antibacterial product; the source is a tank (chamber 24); and the powder, when pressure is released from the tank with powder located in it, is a spray; a body 20, 21 embodied inside a fiber (the material of sole) on the ground of a shoe; the body consisting of two parts 20, 21; a tube 21 connected to the tank 24 and the other body part 20; a "shower" 20 (with aeration holes) attached to the forward portion of the shoe; the tank is attached to the back side of a shoe. Stephan '893 does not teach the dispensing of a powder from the tank and the tank located in a pocket at the back of a shoe. Riess '476 teaches that a foot powder can be dispensed from a pump into the interior of a shoe to aid in medically treating the user's foot within the shoe. Reeves '715 teaches that a dispensing fluid can be dispensed from a pump located in a pocket 3 attached to the back of a shoe to allow for the user to easily dispense the liquid manually by activating the pump. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to place the powder of Riess '476 into the pump of Stephan '893, as taught by Riess '476, to allow for it to be distributed throughout the interior of the shoe. It also would have been obvious, in view of Reeves '715 to place the source of the powder into a pocket, as taught by Reeves '715, to aid in carrying the powder around and to easily activate the distribution system to distribute the powder within the shoe.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited on form 892 enclosed herewith.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

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If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Stashick whose telephone number is 703-308-3876. The examiner can normally be reached on Tuesday through Friday from 8:30 am until 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Informal Fax for 3728	(703) 308-7769

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov/



Anthony D Stashick
Primary Examiner
Art Unit 3728

ADS
December 13, 2002